

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROMEO COSCIA	:	
	:	
v.	:	CIVIL ACTION NO. 02-3655
	:	
SALVATORE CAPONE	:	

DEFENDANT'S PRE-TRIAL MEMORANDUM

Nature of the Action and Jurisdiction

This is an action to recover an alleged loan which is completely undocumented. Plaintiff, Romeo Coscia, asserts that this Court's jurisdiction is based on diversity of citizenship.

Statement of Facts

Plaintiff, Romeo Coscia and defendant, Salvatore Capone, are cousins. They have engaged in numerous business transactions with each other, and in all cases those transactions were documented. Contrary to his duties with regard to one of those ventures, CCC Trivest, Inc., Romeo Coscia engaged in competing businesses, and appropriated monies belonging to CCC for himself. Salvatore Capone commenced litigation in the Court of Common Pleas of Chester County for corporate dissolution and an accounting. Romeo Coscia, defendant there, brought the present action.

In the meantime, Mr. Coscia became the target of a Federal Mann Act investigation in Ohio. He threatened to involve Mr. Capone, but Mr. Capone was never prosecuted. Instead, Mr.

Coscia entered a plea of guilty, and the trial in this matter was continued until he completed his prison term.

Mr. Coscia's claim in this action is that he made an undocumented loan to Mr. Capone of \$140,000. This was contrary to the parties' history of documenting their transactions. He asserted that support would be found in Italian banking transactions, and obtained letters rogatory for that purpose. No documentation resulted.

Damages Claimed

Plaintiff claims \$140,000.00 plus interest. There is no support for that claim. This action was brought for improper purposes and is without evidentiary support. Defendant seeks counsel fees pursuant to FRCP 11.

Trial Witnesses

Defendant may call as witnesses:

1. Salvatore Capone, 38 Laura Lane, Pittsgrove, New Jersey 08318;
2. Linda Capone, 38 Laura Lane, Pittsgrove, New Jersey 08318.

Defendant may call as witnesses any of the individuals designated by defendant. The foregoing witnesses will testify as to non-liability, and therefore the lack of damages.

Defendant's Trial Exhibits

Letters Rogatory issued June 3, 2003 by the
Honorable John R. Padova, United States District Judge.

Days Required for Trial

One

Special Comments

None

VANGROSSI AND RECCHUITI

By: _____
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Attorney For Salvatore Capone

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the Defendant's Pre-Trial Memorandum, upon the attorney for the plaintiff, Romeo Coscia, by first class mail, postage prepaid, as follows:

John N. Salla, Jr., Esquire
Two Commerce Square
2001 Market Street, Suite 3410
Philadelphia PA 19103
(Attorney for Plaintiff, Romeo Coscia)

Francis Recchuiti, Esquire

Date: September , 2004